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5 ATTORNEYS FOR  
MARK KESEL  
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8 UNITED STATES BANKRUPTCY COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11 In re:	)	Case No. 10-41653 RLE
12 MARK KESEL	)	CHAPTER 11
13 Debtor.	)	
14	)	Date: April 26, 2011
15	)	Time: 1:30 P.M.
16	)	Place: 1300 Clay Street
17	)	Courtroom 220
	)	Oakland, CA 94612
	)	Judge: Roger L. Efremsky

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19 **STATUS CONFERENCE STATEMENT**  
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21 Debtor, Mark Kesel ("Debtor"), submits the following Status Conference Statement for  
22 the Status Conference scheduled in this case on April 26, 2011, at 1:30 P.M.  
23

24 1. **INTRODUCTION**

25 Debtor commenced his Chapter 11 case on February 16, 2010. Debtor is compliant with  
26 the filing of his monthly operating reports and the payment of his fees to the U.S. Trustee. An  
27 initial Status Conference was held on May 26, 2010. A subsequent Status Conference was held  
28 on June 30, 2010. A hearing in September 2010 was continued to April 6, 2011 to allow time for

1 completion of an appellate proceeding. The Status Conference on April 6, 2011 was continued  
2 to April 26, 2011.

3 For the reasons set forth below, Debtor suggests that the Status Conference be continued  
4 to the July 2011 calendar.

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6 2. **STATUS OF CHAPTER 11 CASE**

7 A. Status of Appeal

8 One of the primary issues in this case involves a judgment which purports to render  
9 Debtor liable to Applied Materials for a sum in excess of \$1,500,000. Mr. Kesel appealed the  
10 Judgment and the appellate court affirmed. Debtor is evaluating his options with respect to his  
11 Chapter 11 case in view of the appellate ruling.

12 B. Settlement Negotiations

13 Counsel for Debtor has been engaged in settlement discussions with Applied Materials  
14 (as well as counsel for Debtor's co-defendants in the litigation as to which Mr. Kesel is a  
15 judgment debtor), and settlement discussions have made some progress, with each side having  
16 exchanged global settlement proposals. No settlement has been reached as of this time, however,  
17 the settlement dialogue is continuing and appears to be very productive. The parties have agreed  
18 to further extend the deadline for Applied Materials to file non-dischargeability actions pending  
19 further discussions. In view of certain issues which remain to be agreed upon, Debtor has  
20 proposed to Applied Materials that the parties engage in a BDRP session. Debtor is awaiting a  
21 response to this suggestion and, if Applied Materials agrees, the parties may request that the  
22 Court approve a stipulation to BDRP. In addition, Debtor has recently received a further  
23 settlement proposal from counsel for Applied Materials which may enable to parties to resolve  
24 this matter without the need for BDRP. That settlement proposal is being reviewed and  
25 evaluated by Debtor and his co-defendants at this time.

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27 3. **CONCLUSION**

28 Debtor respectfully suggests that this Status Conference be continued to July 2011, to

1 allow for completion of, or at least significant progress in, the settlement discussions with  
2 Applied Materials. The resolution of that dispute, if possible, would likely affect the disposition  
3 of this case. It therefore appears more cost effective to resolve that matter prior to proceeding  
4 with the confirmation process.

5 Respectfully submitted,

6 Dated: April 15, 2011

DIEMER, WHITMAN & CARDOSI, LLP

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8 By: /s/ Judith L. Whitman  
9 Attorneys for Debtor  
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